

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

JOSE MENDOZA-RUELAS (1), OSCAR CHAVEZ-GARCIA (2), and JOEL CHAVEZ-DURAN (3),

Defendants.

UNITED STATES OF AMERICA,

Plaintiff,

- vs -

OSCAR CHAVEZ-GARCIA,

Defendant.

Case No. 4:21-CR-6028-RMP and
 4:21-CR-6030-RMP

CRIMINAL MINUTES

DATE: OCTOBER 19, 2021

LOCATION: SPOKANE

**PRETRIAL CONFERENCE AND MOTION
 HEARING**

Hon. Rosanna Malouf Peterson			
Penny Lamb Courtroom Deputy	LC1 Law Clerk	Natalia Rivera and Kenneth Barger Interpreter	Allison Anderson Court Reporter
Stephanie A. Van Marter Government Counsel		Alex B. Hernandez and Nick Mirr for Jose Mendoza-Ruelas Roger J. Peven for Oscar Chavez-Garcia Adam R. Pechtel for Joel Chavez Duran Defense Counsel	
United States Probation Officer: Not Attended			

Open Court

Chambers

Telecon

Defendants present in custody of United States Marshal with appointed and retained counsel. Defendants were assisted with the use of the Court's certified interpreters and they were able to understand what was being said.

ORDER FORTHCOMING

CONVENED: 9:00 A.M. 10:50 A.M. 1:30 PM 3:00 PM	ADJOURNED: 10:32 A.M. 12:21 P.M. 2:43 P.M. 5:10 PM	TIME: 6:26 HR.	CALENDARED <input checked="" type="checkbox"/>
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Defendant Oscar Chavez-Garcia's Motion to Continue Trial:

Mr. Peven addressed the Court and argued his Motion to Continue. After speaking with Government counsel, Mr. Peven requested a trial date in February or March 2022. Nick Mirr, counsel for Jose Mendoza-Ruelas, moved to join in the Motion to Continue. Adam Pechtel objected to the Motion to Continue until the Court rules on the Motion to Suppress. Discussion among counsel regarding available trial dates in Richland and the discovery and pretrial deadlines. The Court grants the Motion to Continue over the objection of Mr. Pechtel. Speedy trial waivers to be signed and filed.

Ms. Van Marter addressed the Court and updated the Court on the status of discovery. She believes the discovery could be finished by the end of November.

Jury trial of November 8, 2021, is STRICKEN and RESET to March 14, 2022 in Richland. An additional pretrial conference shall be held February 14, 2022, and a third pretrial conference shall be held on March 7, 2022.

9:11 a.m. Defendant's Motion to Suppress: The Court has reviewed the video several times as well as read the briefing. The Court asked Ms. Van Marter questions about the identities of the officers in the video. Ms. Van Marter responds to the Court's inquiries.

Ms. Van Marter presented argument in opposition to Defendant Joel Chavez-Duran's Motion to Suppress.

9:15 a.m. - Officer Kristofer Safranek sworn in and questioned by Ms. Van Marter. Ms. Van Marter moved to admit Attachment C as Government's Exhibit No. 1, the body camera footage. Mr. Pechtel objected on the basis of foundation. The Court sustained the objection. Ms. Van Marter renewed her motion to admit the video. Mr. Pechtel objected on foundational grounds. The Court will not admit the video, but the Government can use it for illustrative purposes but wants it marked specifically where the meter is and what part this witness can testify is accurate and stop the video at the parts where he cannot. Ms. Van Marter requested permission to play the video for illustrative purpose. Permission granted.

Interpreter Barger stated his concerns about the accuracy of interpreting the video. His concerns were noted on the record. The Court advised the interpreter to do the best he can.

Portions of Government's Exh 1 are played for illustrative purposes and discussed with the witness.

10:32 a.m. – 10:50 a.m. Recess

10:50 a.m. Court is reconvened.

10:50 a.m. Officer Kristofer Safranek resumes the stand. Mr. Pechtel cross-examines witness. Mr. Pechtel offered Defendant's Exhibit 1001, which is a police report prepared by Officer Kristofer Safranek. Government had no objection. The Court admits Defendant's Exhibit 1001. Defendant's Exhibit 1001 discussed with witness.

Redirect by Stephanie Van Marter. Defendant's Exhibit 1001 discussed with witness.

Re-Cross by Mr. Pechtel.

11:32 a.m. Witness Excused.

11:33 a.m. - Officer Kevin A. Erickson sworn in and questioned by Ms. Van Marter. Ms. Van Marter moved to admit Government Exhibit No. 1. No objection by Mr. Pechtel. The Court admitted Government Exhibit 1. Video played and discussed with witness.

Cross-Examination by Mr. Pechtel.

Redirect by Ms. Van Marter.

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12:20 p.m. Witness Excused.

12:20 p.m. – 1:30 p.m. Recess

1:30 p.m. Court is reconvened.

Ms. Van Marter advises that it is the Government's intent to admit through this next witness what was previously submitted in the Government's response to Defendant's Motion to Suppress as Attachments A, B and D as Government's Exhibits 2, 3, and 4. The documents are filed in the record under seal. Mr. Pechtel is concerned about the documents being filed under seal. He asked that the hearing be closed or the Government lift the seal if the documents are going to be discussed and/or displayed. The Court has asked Mr. Pechtel if he reviewed the documents, and he indicated he has reviewed them. Ms. Van Marter advises that the documents will be discussed in generality as a background. The Court indicated since they are part of the record, that is fine. Ms. Van Marter indicated that the only exhibit that they might display would be Attachment D which was the actual report from Special Agent Pitts which was previously provided, and the Government has no objection to that being displayed in open court.

1:34 p.m. - Michael Lee Pitts sworn in and questioned by Ms. Van Marter. Ms. Van Marter plays portions of Government Exhibit 1 and discusses with witness.

2:43 p.m. - 3:00 p.m. Recess

3:00 p.m. Court is reconvened.

Cross-examination by Mr. Pechtel. Mr. Pechtel moved to publish Attachment A at ECF 67, paragraph 127, which was filed under seal. Ms. Van Marter had no objection to that portion being displayed. The Court granted permission and admitted that portion of the attachment. Discussion between the Court and counsel regarding Officer Pitts' source of information. Ms. Van Marter directs the Court to ECF No. 62, starting at page 10, page 13. Mr. Pechtel asked to publish ECF No. 67, paragraphs 13, 14, and 15 which was filed under seal, Officer Pitts' report. Ms. Van Marter had no objection., and the Court allowed it. ECF No. 67-2, paragraphs 13, 14, and 15 were discussed with the witness. Govt Exh 1 shown and discussed with witness.

The Court advises that she is concerned about the time remaining for the hearing. Ms. Van Marter addressed the Court concerning the issue of time and gave a summary of the remaining anticipated testimony. Mr. Pechtel objected to the testimony of Mr. Savage as cumulative. The Court sustained the objection and will not allow the testimony of Mr. Savage and will not allow redirect or recross of Mr. Pitts.

3:54 p.m. Witness excused.

3:57 p.m. Joel Chavez-Duran sworn in and questioned by Mr. Pechtel.

Cross-examination by Ms. Van Marter. Mr. Peven objected as the testimony is going into matters involving his client which he cannot cross-examine and it's beyond the scope of the direct. The Court overruled the objection. Ms. Van Marter continued with cross-examination. Mr. Peven objected again as it is beyond the scope. Objection overruled; the Court will allow it. No re-direct by Mr. Pechtel.

5:06 p.m. Witness excused.

The Court ordered that closing arguments shall be submitted in paper. Ms. Van Marter requested that Attachment D to the Government's response be submitted for the Court's consideration for impeachment purposes. Mr. Pechtel had no objection but requested that the Court set filing deadlines for the closing arguments. The Court ordered that the Government's closing argument shall be filed by October 25, Defendant's closing argument shall be filed by October 29, and any rebuttal shall be filed by November 3. No page limit restrictions, except that any rebuttal brief is limited to 5-10 pages.